REMARKS

Preliminarily, Applicants note that the Examiner's comments on page 2, paragraphs 4 and 5 which in sum, states that the Examiner did not apply the IBM TDB reference against claims 3-5, 11-13 and 18-20.

In reviewing the last Office Action prior to the Final Office Action, Applicant notes that on page 3 of the July 8, 2004 Office Action, the Examiner states that "claims 1-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mamros et al., U.S. Patent No. 6,360,269 B1 (herein referred to as Mamros) in view of "Heuristic Method for Grouping Based on Traffic Counts" by IBM TDB (herein referred to as TDB)."

Thus, from this sentence, it does appear that the Examiner did reject all of the claims based on a combination of Mamros and the IBM TDB reference.

Applicants acknowledge that it appears that in the remainder of the July 8, 2004 Office Action that the IBM TDB reference was only used when discussing claim 1. That said, it was not clear, and still is not clear, to the Applicants that the Examiner is only using the IBM TDB reference to reject claim 1.

Applicants respectfully request a clear statement from the Examiner that the IBM TDB reference is only being used to reject claim 1.

Claims 1-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Mamros et al., U.S. Patent No. 6,360,269 ("Mamros") in view of an IBM Technical Disclosure Bulletin entitled "Heuristic Method for

Grouping Based on Traffic Counts" ("IBM TDB"). Applicant respectfully disagrees and traverses this rejection for at least the following reasons.

Each of the claims of the present invention requires the prediction of exchanges of a "specific quantity of communication traffic between network elements" by, among other things, calculating "a weighted traffic flow per usage for a given network element" and "comparing the value of said weighted traffic flow per usage with a remainder value of said specific quantity of communication traffic yet to be processed."

Said another way, the present invention involves the comparison of traffic which has been processed with a value which represents an amount of traffic that can be processed based on a specific quantity of traffic (e.g., a so-called security association, SA) that can be exchanged between network elements.

As the Final Office Action points out, Mamros does not teach or disclose such a comparison. To overcome this deficiency, the Final Office Action relies on the IBM TDB (at least as it relates to claim 1). However, the IBM TDB is not related to the prediction of exchanges of a specific quantity of traffic between network elements as is required by claim 1 (and 2-20). Instead, the IBM TDB is directed at a method of grouping nodes in a massive node server system. It is wholly unrelated to the determination or prediction of the exchange of a specific quantity of traffic between network elements, as is required by claims of the present invention.

It appears to the Applicants that the Examiner has ignored the preamble of claim 1 in determining patentability of the claims. This is impermissible.

Further, Applicant respectfully submits that the combination of these two references is inappropriate because their combination would render one or both of the references unsatisfactory for their intended purposes or require one or both of the references to change their principle of operation. For example, the IBM TDB is wholly unrelated to the issue of the exchange of security associations used in encrypting data. Therefore, the principle of operation of the heuristic methods in the IBM TDB would have to be changed such that they could be applied to the encryption of data. Alternatively, the principle of operation of Mamros would have to be changed such that it could be used to heuristically group nodes, which is the aim of the IBM TDB. Neither are permissible (see MPEP 2143.01).

Applicant notes that claims 2-8 and 14 depend on claim 1 and are patentable over Mamros taken separately or in combination with IBM TBD. Additionally, claims 9-13 and 15-20 are patentable over Mamros, taken separately or in combination with IBM TBD for the reasons set forth above.

Accordingly, Applicant respectfully requests withdrawal of the pending rejections and allowance of claims 1-20.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.
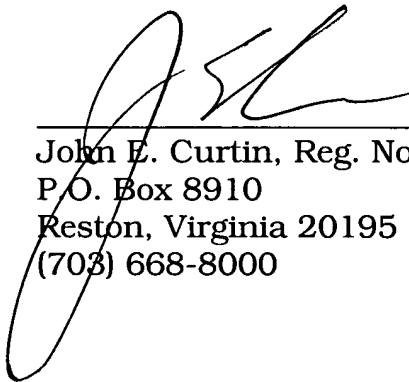
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By _____

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